

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

GREGORY L. DOWDY,

Petitioner,

No. C 09-03144 WHA

v.

BEN CURRY,

Respondent.

**ORDER RE
EVIDENTIARY HEARING**

Respondent's counsel has moved to vacate the evidentiary hearing scheduled for December 9, 2013, and for the issue of petitioner's mental competency from 1999 to 2009 to be decided on the papers. Our court of appeals has held that where a record is sufficiently developed, an evidentiary hearing is not required. *Roberts v. Marshall*, 627 F.3d 768, 773 (9th Cir. 2011).

Before the court rules, petitioner will be given one more chance to state his position by **NOVEMBER 7, 2013, AT NOON**, on whether an evidentiary hearing is required or whether the issue can be decided on the papers.

IT IS SO ORDERED.

Dated: November 1, 2013.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE